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COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
313 N. Figueroa, Los Angeles, CA 90012
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December 21, 2004

TO: Each Supervisor

FROM: Thomas L. Garthwaite, M.D.
Director and Chief Medical Officer

A handwritten signature in black ink, appearing to read "Thomas L. Garthwaite".

for Jonathan E. Fielding, M.D., M.P.H.
Director of Public Health and Health Officer

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SUBJECT: **COMMERCIAL SEX VENUES**

On September 7, 2004, the Board approved the Department's recommendations related to approval of an ordinance concerning commercial sex venues (CSVs), as amended to 1) include, as part of the regulations, requirements regarding the regulation of health and sanitation conditions; 2) instruct the Director of Public Health to report back to the Board within 60 days with a plan for unilateral action in the event the City of Los Angeles (City) does not adopt the County's ordinance; 3) in collaboration with County Counsel, the Director of Consumer Affairs, and the Business License Commission, review San Diego County's ordinance to determine if it is feasible to incorporate various requirements; and 4) in collaboration with County Counsel, report back on recommendations to either include Sexual Encounter Establishments in the ordinance or create a new ordinance in that regard.

This is a status report on developments since the report of November 8, 2004.

City of Los Angeles Approval

On November 16, 2004, the Los Angeles City Council's Arts, Parks, Health and Aging Committee approved the following recommendations:

That the City Council instruct the City Attorney to prepare an ordinance enabling the Los Angeles County Department of Health Services (DHS) to enforce its Commercial Sex Venue (CSV) regulations within the City of Los Angeles with the following conditions recommended by the City AIDS Coordinator:

- 1) The County explicitly indemnify the City for any expense incurred by the County as a result of DHS enforcement of the ordinance;
- 2) The City enabling ordinance require re-issuance or reauthorization by Council if the Health Officer makes significant revisions to the regulations;
- 3) DHS notify the AIDS Coordinator's Office prior to the rescission or denial of a public health facility permit for a business establishment subject to the ordinance that is located within the City.

In addition, the Committee asked the City Attorney to investigate what term the City should use to describe the businesses in question: should it be CSV, sexual encounter establishment or something else?

Committee members requested that DHS staff work with the City Attorney and City AIDS Coordinator to resolve issues related to these conditions. City Attorney and County Counsel attorneys have been developing language to try to resolve the first condition. Department staff will meet with the City AIDS Coordinator and the attorneys soon to attempt to reach acceptable language regarding the second and the third conditions.

County Counsel has advised as to the Health Officer's authority to unilaterally regulate the CSVs located in the City should the City not adopt the County's CSV ordinance. It is our understanding that County Counsel will be providing your offices with a copy of their opinion on this subject under separate cover. The Department is utilizing County Counsel's advice as a basis for development of possible strategies in the event that the City does not adopt the County's ordinance. However, at this point in the process, we are hopeful of City adoption.

Review of San Diego County Ordinance

As previously reported, the Department has conferred with the Director of Consumer Affairs and has attended meetings of the Business License Commission (BLC) where the CSV issue was on the agenda.

On December 1, 2004, the BLC approved the following motion:

The Commission recommended to the Los Angeles County Board of Supervisors that the Los Angeles County Commercial Sex Venue Ordinance and its related draft regulations be amended to include the following:

1. For businesses falling under the CSV ordinance, that CSV owners be required to undergo a background check;
2. Requirements for operations as suggested by DHS;
3. Requirements and regulation of health and sanitation conditions as suggested by DHS; and
4. Establishment of guidelines for the role of Community-Based Organizations to work in conjunction with the Department of Health Services Commercial Sex Venue regulations, as suggested by DHS.

DHS will incorporate the operational and sanitation condition when the regulations are finalized. The role of community-based agencies is already in the HIV/STD counseling/testing and education sections of the draft regulations. We continue to believe that background checks are more appropriately a licensing issue rather than a health issue. However, we will review this issue with the City representatives as they develop their ordinance.

On December 29, 2004, the BLC will consider whether Title 7 of the County Code should be amended to establish a new business license category for any CSVs which seek to operate in the unincorporated areas in the future.

We will continue to work with the AIDS Coordinator, City Attorney and County Counsel to obtain approval of the ordinance by the City and will provide you with an update by January 30, 2005. In the meantime, if you have any questions or need additional information, please let either of us know.

TLG:JEF:js
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c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors
Business License Commission
Director of Consumer Affairs
Los Angeles City AIDS Coordinator